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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,165	04/11/2001	Craig Rae Fowler	60,130-788	1533
26096	7590	01/13/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			ADDISON, KAREN B	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/833,165	Applicant(s) FOWLER ET AL.	
	Examiner Karen B Addison	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 17-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

1. Applicant's arguments with regards to the 112, second rejection see page 7-8, filed 9/30/04, with respect to claims 1-6 and 7-26 have been fully considered and are persuasive. The 112, second paragraph of the non-final rejection has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston (6232681).

As best understood, Johnston shows a motor in fig.1-5 comprising: a stator body having a solid core (22) formed of a first material made of powder metal / Thermo-plastic with a plurality of circumferentially spaced portions (25) having a second material consisting of plastic at an outer peripheral surfaces, and a conductive material (21) is deposited between the teeth (23) over the insulating layer that's more conductive than the first material. Wherein, the insulating material (thermo-plastic) is place around the circumferentially spaced teeth, and a conductive material (copper winding) deposited between the teeth.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-14, 17-25 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston (6232681) in view of Schmidt (5517070)

Johnston substantially teach the claim invention including the core body formed on the outer peripheral surface and the circumferentially spaced conductive area being formed as the outer circumference of the rotor or stator: However, Johnston does not show a vehicle component movable between a plurality of operational position relative to a fixed component movable between a plurality of operational position relative to a fixed component between the operation position between the stator and rotor cooperating to drive the motor of the output shaft and a closer member fixed to a frame.

Schmidt teaches vehicle component fig.1 comprising: an electric motor including a rotor 33(separated by and air gap) and the permanent magnets of the stator (12,13) having a vehicle component (sunroof not shown) movable between a plurality of operational positions relative to a fixed component (2) driving by motor wherein, the output shaft (3) is coupled to the vehicle component between the operation position between the stator (13) and rotor (33) cooperating to drive the motor of the output shaft (14) with a gear assembly (32) coupled to the closer member (window see col.2 line 1-3) fixed to a frame for the purpose of driving the closes member. It's inherent that Schmidt motor is

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operable as an AC or DC motor since, the motor comprises a commutator which cuts the motor on and off by current.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the electric motor of Johnston with the teaching of Schmidt electric motor for the purpose driving an electromotive window.

Referring to claims 3,9, and 20, little patentable weight has been given to the method of manufacturing limitations (i. e. co-extrusion and) since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Referring to claims 16 and 19 the selection of a known material based upon its suitability (i.e. Ferro- plastic, nylon filled plastic) for the intended use is a design consideration within the ordinary skill in the art. *In re Ieshin*, 227 f.2d 197, 125, USPQ 416(ccp1960).

Response to Arguments

Applicant's arguments filed 9/30/04 have been fully considered but they are not persuasive.

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In response to the applicant's argument that Johnston fails to show, the circumferentially spaced portion formed on the outer peripheral surface of the core is noted.

However, Johnston clearly shows a stator 20(in figs. (1-2)) having circumferentially spaced portions (25) on the outer peripheral surface of the core(22).

In response to the applicant's argument that, the circumferentially spaced portions are not formed of a second material (eg. plastic) is noted.

However, Johnston clearly disclose a plurality of circumferentially spaced (25) portions having a second material consisting of plastic at the outer peripheral surface and a conductive material deposited between the teeth of the stator (25). Johnston also disclose, the circumferentially spaced portion made of Powder magnetic material (col.9 line58-65) which contain thermo- plastic resin (col.7 line 54-63.

In response to the applicant's argument that, Schmidt fails to teach an AC motor is noted.

However, the applicant has failed to disclose the details of the AC motor (induction squirrel cage motor etc) therefore, it's inherent that Schmidt motor is operable as an AC or DC motor since, the motor comprises a commutator which cuts the motor on and off by current.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen B Addison whose telephone number is 571-272-2017. The examiner can normally be reached on 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2204. The fax phone number for the organization where this application or proceeding is assigned is 571-272-2204.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KBA
1/7/04


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